
Chapter 13 Drunk Driving

Abstract

Before the 1980s, drunk driving was considered unfortunate but socially acceptable. Victims were thought to have been in the wrong place at the wrong time, unable to avoid what were considered "accidents." With the advent of Mothers Against Drunk Driving and other grassroots victim groups, crash victims are no longer simply an amorphous mass of statistics. They have names and faces, and their tragedies are now rightfully considered crimes. With a combination of victim assistance, prevention programs, and aggressive public policy initiatives, drunk driving deaths are down 40 percent since 1980, but much more remains to be done.

Learning Objectives

Upon completion of this chapter, students will understand the following:

- Grassroots efforts that led to a nationwide movement against drunk driving.
- The impact of drunk driving on the victim.
- Current research on drunk driving crash victims.
- Suggestions for drunk driving victim services.
- Promising practices in drunk driving public policy and public awareness.

Statistical Overview

- More Americans have been killed in alcohol-related traffic crashes than in all wars the United States has been involved in since it was founded (NHTSA 1998).
- In 1998, there were an estimated total of 968,868 arrests for driving under the influence of alcohol (FBI 17 October 1999, 211).
- About three million innocent drivers have their vehicles damaged in 2.6 million drunk driving crashes per year (Miller, Lestina, and Spicer 1996).
- Alcohol-related motor vehicle crashes cause about \$45 billion in economic costs per year. Adding pain, suffering, and loss of quality of life raises the figure to \$116 billion (Blinco 1997).

- A total of 15,935 persons (38% of all traffic fatalities) died in alcohol-related crashes in 1998--an alcohol-related fatality every 33 minutes (NHTSA, *Alcohol*, 1999, 1).
- In 1998, more than 305,000 persons were injured in alcohol-related crashes--an average of one person injured approximately every two minutes (Ibid.).
- The rate of alcohol involvement in fatal crashes in 1998 was about four times as high at night as during the day (60% v. 17%) and almost twice as high on weekends as during the week (52% v. 29%) (Ibid., 2).
- Intoxication rates for vehicle operators involved in fatal crashes in 1998 were highest for motorcycles (31%), followed by light trucks (20%), passenger cars (18%), and large trucks (1%) (Ibid.).
- More than one-third (34%) of all pedestrians age sixteen or older killed in traffic crashes in 1998 were intoxicated. Pedestrians age thirty-five to forty-four represented the category of victims' age most often intoxicated at the time of death (48%) (Ibid., 3).
- The intoxication rate for male drivers involved in fatal crashes was 20%, compared with 10% for female drivers (Ibid., 5).
- Older drivers (age sixty-four and over) involved in fatal crashes in 1998 had the lowest intoxication rate (5%) of all adult drivers (Ibid.).
- Twenty-five percent of young male drivers (age fifteen to twenty) involved in fatal crashes in 1998 had been drinking at the time of the crash, compared with 12% of young female drivers (NHTSA, *Young Drivers*, 1999, 5).
- Twenty percent of child fatalities (age fifteen and under) were killed in alcohol-related crashes--almost half of these were in vehicles where the driver had a BAC level of at least 0.01 (NHTSA, *Children*, 1999, 2).
- After five years in which St. Patrick's Day was the holiday with the highest percentage of alcohol-related fatalities, in 1997, New Year's Eve and Day were the highest with 67.1% of the crashes alcohol-related. However, the total number of traffic fatalities from Thanksgiving through New Year's dropped to an all-time low of 4,058, of which 36.9% were alcohol-related (NHTSA 1998).

ALCOHOL AND YOUTH

- About 9% (9.5 million) of the nation's users of alcohol are under twenty-one. Of these, 1.9 million are heavy drinkers, and 4.4 million are binge drinkers (SAMHSA 1997).

- The average age when youth first try alcohol is 12.8 (Ibid.).
- Motor vehicle crashes are the leading cause of death for youth ages fifteen to twenty (NHTSA 1997).

ALCOHOL AND CRIME

- Nearly four in ten criminal victimizations involve use of alcohol (BJS 1998a).
- About 40% of offenders, whether on probation, in jail, or in prison, said they were using alcohol at the time of their offense (Ibid.).
- For about one in five violent victimizations involving perceived alcohol use by the offender, victims believed the offender was also using other drugs (Ibid.).
- Based on self-reports of what incarcerated offenders were drinking and for how long, it is estimated that the average blood alcohol level at the time of the crime was 0.16 for probationers, 0.19 for jail inmates, and 0.27 for state prisoners. When comparing violent offenders, property offenders, drug offenders, and public order offenders, the highest blood alcohol levels were for property offenders (Ibid.).
- More than half of trauma patients with a positive blood alcohol concentration (BAC) at the time of the trauma were alcoholics, and nearly one in seven patients who were not drinking at the time of the trauma were alcohol-dependent (BJS 1998b).

Definitions

Administrative License Revocation: A law providing for prompt suspension of the license of drivers charged with Driving While Intoxicated (DWI) upon the finding that the driver had a BAC above the prescribed limit. The law enables the license suspension to go into effect prior to adjudication of the DWI charge.

Alcohol-related Fatality/Crash: A vehicular crash or pedestrian fatality involving a driver who has a positive BAC, though not necessarily above the illegal per se or presumptive level.

BAC (Blood Alcohol Concentration): The number indicates the grams of alcohol contained in every 100 milliliters of the person's blood. For example, a BAC of 0.10% means there is a 1/10 gram of alcohol in 100 milliliters of blood.

Binge Drinker: The Federal Substance and Mental Health Services Administration definition is five or more drinks on the same occasion at least once per month.

Designated Driver: A person in a group who agrees to refrain from alcohol use so the other group members may be assured of having a sober driver. Some bars and restaurants offer incentives to designated drivers by providing free soft drinks, reduced-cost meals, etc.

Heavy Drinker: The Federal Substance Abuse and Mental Health Services Administration definition is five or more drinks on the same occasion at least five days during the month.

Impairment: Effects of alcohol or other drugs that are less severe than intoxication or drunkenness but still diminish driving ability.

Intoxication: A term linked with a specific level of BAC, usually connotating observable and severe effects of alcohol.

Per Se: In and of itself; for example, a BAC at or above a certain level based on chemical tests is conclusive evidence of intoxication, regardless of whether or not the individual operating the vehicle appears to be or acts intoxicated.

Presumptive: No conclusive evidence; for example, a legal presumption can be, and often is, rebutted. A defendant whose BAC is above 0.10% could be found not guilty if the statute includes "presumptive" rather than "per se" language and the defendant did not appear obviously intoxicated.

Provisional License: A driver's license issued to young people (usually fifteen- to seventeen-year-olds) that withholds some of the driving privileges granted to adults; for example, a provisional license may require a curfew, parental supervision, and 0.00% BAC. If the youth does not violate the provisions, some of the restrictions are removed each year.

Sobriety Checkpoints: A system where law enforcement agencies select a particular location for a particular time period and systematically stop vehicles (for example, every third car) to investigate drivers for possible DWI. If any evidence of intoxication is noted, a detailed investigation ensues.

Introduction

The 1982 Final Report of the President's Task Force on Victims of Crime did not address drunk driving, even though it was one of the most frequently committed crimes in the country. That year, 25,165 people were killed in impaired driving crashes. The lack of attention to this class of victims is attributable, in part, to the fact that grassroots groups such as Mothers Against Drunk Driving (MADD) were in their infancy, and drinking and driving were still considered acceptable--the consequences, just an "accident."

ACTIVISM AND PUBLIC POLICY

With the advent of MADD and other grassroots groups, public awareness of drinking and driving as a preventable crime grew rapidly. The number of legislative countermeasures at both the federal and state levels increased, and public policy became the focal point of efforts to reduce deaths and injuries resulting from impaired driving crashes.

MADD and Remove Intoxicated Drivers (RID) were the first activist groups to begin putting names and faces to statistics. One of the first nationally recognized victims was five-month-old Laura Lamb, riding in the car seat beside her mother as they drove to the store in November 1979. They were hit head-on by a drunk driver speeding toward them at 120 mph. He had no driver's license, no insurance, and a record of thirty-seven traffic violations (three of them for drunk driving). Laura became America's youngest quadriplegic. Her story was told throughout the nation when Maryland's Congressman Michael Barnes introduced the nation's first tough anti-drunk driving legislation.

In May 1980, thirteen-year-old Cari Lightner was walking to a church carnival in Sacramento, California, with her friend when she was hit from behind and killed instantly by a man who had been out of jail only two days since being arrested for another hit-and-run drunk driving crash. In fact, his record revealed three previous drunk driving arrests. A grassroots effort to organize against drunk driving began when Candy Lightner, Cari's mother, from California and Cindy Lamb, Laura's mother, from Maryland joined forces in late 1980 to form Mothers Against Drunk Driving. Since then, thousands of volunteers, both victims and concerned citizens, have worked to stop drunk driving. Their efforts, combined with a lowered speed limit, increased use of seatbelts and airbags, and other safety measures have contributed to more arrests for drunk driving every day than for any other crime. Consequently, drunk driving fatality rates are down 40%, from 28,000 in 1980 to 16,189 in 1997 (NHTSA 1998).

HISTORICAL PERSPECTIVE

Drunk driving is not a new problem. Henry Ford worried about it when he introduced "motor carriages" as a quantum leap from horse-drawn carriages. He knew that imbibing would place drivers of his automobiles at greater risk than those traveling by horse and carriage. The horses knew how to get home.

In the 1960s, the Department of Transportation and the National Highway Traffic Safety Administration began showing legislators and the public the staggering number of deaths attributable to traffic crashes in general and alcohol-related crashes in particular. A few drunk driving laws were passed, but they stipulated that a 0.10 or 0.12 BAC only "presumed" an individual to be intoxicated; the charge of intoxication was rebuttable. In 1972, Nebraska and New York passed the first laws stating that a 0.10 blood alcohol content was conclusively "illegal

per se." No further evidence of impaired ability to drive was needed. These laws were based on the fact that at 0.10, any person, regardless of tolerance to alcohol, was significantly impaired in his or her ability to operate a motor vehicle (NHTSA 1974). South Dakota, Utah, and Vermont followed in 1973; Florida and North Carolina in 1974; and Oregon in 1975. By 1979, twelve states had set an illegal per se limit, all of them at 0.10 except New Hampshire which set its per se limit at 0.15 (California Legislature 1979).

Neither the press nor the public paid much attention to the illegal per se limit. This lack of concern was indicated by a two-inch article printed in the October 16, 1979 edition of the *New York Times*, which noted an all-time record number of people had been killed in "road accidents" in 1978-50,145 people.

In 1980, the National Highway Traffic Safety Administration published its first issue paper on illegal per se and preliminary breath testing that proposed model language for both laws (NHTSA 1980).

Anti-drunk Driving Movement

A unique characteristic of the anti-drunk driving movement is its equal emphasis on prevention programs and victim services. Perhaps this is most clear in public policy development and implementation. Grassroots victims organizations attracted not only the minds of the public and legislative bodies but their hearts as well.

Between 1982 and 1997, more than 1,700 pieces of anti-drunk driving legislation were passed nationwide. One result of legislative success is the proportion of traffic fatalities that are alcohol-related declined from a high of 57% in 1982 to 38.6% in 1997 (NHTSA 1998). The proportion of drivers in fatal crashes who had a blood alcohol level of 0.10 or greater has declined from more than one-third in the beginning of the 1990s to less than one-fourth as the end of the decade is approached. Between 1985 and 1995, the proportion of intoxicated drivers sixteen-to-twenty years of age who were involved in fatal crashes dropped 47%, the largest decrease of any age group during this time period (NHTSA 1996). The bottom line success, however, is measured in total lives saved. In 1980, there were approximately 28,000 alcohol-related fatalities. By 1997, this number had been reduced to 16,189 even though the number of drivers and number of miles driven increased substantially (NHTSA 1998).

Current Research on Drunk Driving Victims

DRUNK DRIVING VICTIM SATISFACTION WITH CRIMINAL JUSTICE PROFESSIONALS

Nearly 600 victims of drunk driving crashes responded to a survey (Sobieski 1994) that analyzed (1) victim satisfaction with the criminal justice system and (2)

weaknesses in the justice process. Nearly two out of three were satisfied with the quality of the *law enforcement investigation* of their cases. However, many felt the police had failed to protect the property of their loved ones (clothing, jewelry, etc.). This perception was the source of significant hurt and bitterness.

On the other hand, more than half the respondents were dissatisfied with the *prosecutors*. The quality of the interpersonal relationship between the prosecutor and the victim family was much more significant than the final outcome of the case. The victims wanted to be offered choices by prosecutors. They wanted elements of statutes explained to them so they could discuss the possibility of a plea or reduced charge with the prosecutor. They wanted a choice about being present in the courtroom (if they were not going to testify) and about giving a victim impact statement (VIS). Feeling that their role in the criminal justice system was limited, presenting a VIS lent credence to the gravity of the criminal act.

MADD VICTIMIZATION STUDY

Through a three-year research project funded by the National Institute of Mental Health (Mercer 1995b), a national sample of 1,785 MADD members was surveyed. Of those, 1,448 were victims of drunk driving crashes (bereaved and injured), and 337 were not victims. An additional 234 non-MADD drunk driving crash victims and non-victims were surveyed for comparison. On average, victims were surveyed about five years after the crash. Key findings include:

- No significant differences distinguish victims who join MADD from those who do not.
- Drunk driving victimization is generally severe and long-lasting. After five years, most victims remained impaired psychologically, physically, and financially. Twenty percent of the victims felt they would never again experience a normal life.
- Most victims (82%) who speak on victim impact panels are helped by the process. Ten percent are neither helped nor hurt, and eight percent are hurt. Those helped felt speaking on victim impact panels gave a sense of meaning to their crashes, believing that it would save lives (81%), change the behavior and attitudes of others (76%), and bring good from the crash (55%). Those hurt had usually been encouraged to speak when they did not want to or were not yet ready.
- Victims who come to their crash experience with faith, both internal and manifested in outward religious behavior or fervency, tend to find their faith strengthening after victimization. However, significant disappointment in their faith communities was expressed.

Impact of Drunk Driving on the Victim

The worst is to do nothing because you can only do a little. --Edmund Burke

It is often difficult to work with survivors of those killed or injured in alcohol or other drug-related crashes because of their anger. Our criminal and juvenile justice systems do not provide the same sanctions for these crimes as they do for other crimes with the same result--dead or catastrophically maimed victims. It is difficult to explain to a family that the offender in their case faces a maximum sentence that is only a fraction of what he or she would have faced if a weapon other than a vehicle had been used. Unfortunately, public policy has not yet caught up with the understanding that a death or injury at the hands of an impaired driver is not an accident but the result of two conscious choices: to use alcohol or other drugs and to drive a vehicle.

According to research (Amick-McMullan et al. 1989a, b), very similar percentages of family members of someone murdered and someone killed by a drunk driver develop post-traumatic stress disorder (PTSD). Twenty-three percent had suffered PTSD at some time since the death of their loved one, and five percent were still suffering at the time they were surveyed. With respect to the impact of the homicide on their lives, their experiences with the criminal justice system, and their degree of satisfaction with their treatment by the criminal justice system, surviving family members of murder and alcohol-related vehicular homicide were more similar than different.

Much of what is generally known about grief is based on research of terminally ill individuals and their loved ones. Although correlations can be drawn from traditional thanatology (the study of death and dying), there are significant differences when the death is sudden and traumatic. Understanding those critical differences can enable the service provider to create an environment of support and healing even when the system is unable to acknowledge drunk driving death as murder or drunk driving injury as assault.

The impact of drunk driving crashes that cause serious and/or permanent disabling injuries cannot be overestimated. Victims of these crashes may never fully recover, often spending years in arduous and painful therapeutic efforts. Family members who care for seriously injured victims suffer severe and ongoing stress in all areas of their lives--financial, emotional, psychological, professional, and spiritual.

VEHICULAR DEATH OR INJURY IS UNEXPECTED

Vehicular crashes are sudden. There is no time for psychological preparation, no time to draw upon previous coping skills. Nothing in the human experience can adequately prepare someone to kiss a spouse good-bye in the morning and then be notified that he or she is never coming home again. No previous experience

can equip someone to tell a child to be home by curfew and then to be awakened by a knock at the door from a police officer bringing the devastating news. When the death is caused by a vehicular crash, there is no opportunity to say the "good-bye's," "I love you's," and "I'm sorry's" that need to be said. While not all ill and injured people deal with these issues with their families, they at least have the opportunity to do so.

The first task of crash survivors is simply to grasp what has happened. It takes considerable time for the mind and the heart to assimilate the enormity of the trauma, let alone to accommodate it in any meaningful way. Often those supporting the survivors want to see signs of healing, acceptance, and moving on before the survivor has even comprehended what has happened. The injured can experience the same unrealistic "pushes" toward recovery. Comments like, "You *are* getting better, aren't you?" and "You're just so lucky to be alive" may discount the physical and emotional devastation of the injured.

Service providers can create a supportive environment by allowing injured victims and family members of those killed or injured to remain within a protective bubble of denial as long as they need to. Denial is a valuable defense to protect individuals from fully experiencing more than they can psychologically handle. To ask probing or direct questions is not helpful. Nor is it appropriate to introduce them to "stage" theory, i.e., the five stages of death and dying. Simply allow them to discuss elements of the experience that are the most significant to them at the moment.

VEHICULAR DEATH OR INJURY IS VIOLENT

Death or injury at the hands of an impaired driver almost always causes violence to the body. Regardless of a person's theology about what happens to the soul at the moment of death, the body is infinitely precious. Knowing that the loved one's body was catastrophically damaged can be enormously painful for the survivor.

Service providers naturally want to protect the family from what they perceive to be unnecessary pain and anguish. Therefore, they may mistakenly believe that refusing family members' access to the body, photos, and certain information is an act of compassion. Unfortunately, refusal of choices and information only exacerbates the pain, as survivors tend to fill in knowledge or experiential gaps by imagining horrific scenarios that may be worse than the reality (Awooner-Renner 1993; Osmont 1993; Rynearson and McCreery 1993).

DRUNK DRIVING IS A CRIME

Drunk driving is a crime. Deaths and injuries that have resulted from drunk or drugged driving are senseless and could have been prevented. The offender engaged in choices--to use alcohol or other drugs and to get behind the wheel of a car. Therefore, advocates within the anti-drunk driving movement do not

describe the consequences as an "accident." Words like "crash," "crime," or "incident" are used because they do not minimize the offender's responsibility for the tragedy as does the word "accident."

Another language issue for survivors is distinction between "died" and "killed." For many, the word "died" feels too passive; it fails to acknowledge that the death was someone's fault and therefore could have been prevented. The word "killed" suggests that a life was taken, rather than simply lost.

DRUNK DRIVING INJURY AND DEATH CHALLENGE SURVIVORS' FAITH AND PHILOSOPHY OF LIFE

Just as there are financial, emotional, social, and physical components to every crisis, there are spiritual ramifications as well. Many who have never thought much about God before will do so after a loved one has been killed or injured. For those of faith, a spiritual crisis as great as or even greater than that of the non-faithful may develop.

In a study conducted of survivors of those killed in alcohol-related crashes (Mercer 1995a), those who had some or a lot of faith prior to the death of their loved one found their faith becoming stronger over time. Those having little or no faith prior to the death of their loved one found their faith staying the same or getting weaker.

Among those whose faith became stronger, the process of healing took a significant amount of time, and the struggle was primarily an internal one. Respondents were highly critical of the lack of outreach or support they received from their clergy and faith community. Reasons for *dissatisfaction* with this lack of support included being told that they should not be angry; being told they should forgive the offender; feeling unsupported when they "fell apart" in church; and being told they did not have enough faith or trust in God.

One of the tasks of mourning that leads to healing is creating a context of meaning for the tragedy. This may be among the most difficult tasks for victims of alcohol- or drug-related crashes. Some survivors find meaning within their personal faith journey. Others find it through activism or helping others who are suffering. Still others find a context of meaning through personal value changes, perhaps learning to say "I love you" more often or spending more time with family. Creating a context of meaning never explains away the crime or makes it acceptable, but it does help the survivor identify outcomes that honor and memorialize the deceased and affirm the changed lives of survivors (Herman 1992).

SUMMARY

Few things in life are more profound than being with someone who has experienced the soul-shattering, sudden, violent death or catastrophic injury of their loved one. This may especially be true when the cause was drunk driving that could so easily have been prevented. The authority and status of victim service providers or criminal justice professionals offer an unparalleled opportunity to be of support and guidance. The memory of a loved one killed by an impaired driver holds a unique place in the heart of the homicide survivor, but so also do the memories of those who truly helped. Likewise, injured crash survivors express significant gratitude for advocates who do not minimize their experience and help them to seek material and emotional support services. Equipped with courage, compassion, and knowledge about the unique nature of drunk driving death and injury, compassionate advocates will be counted as extraordinary people who knew how to help.

Suggestion for Drunk Driving Victim Services

According to Mothers Against Drunk Driving, some of the following practices may be especially helpful to victims injured or family members of those killed in drunk driving crashes.

- Rather than explaining stages, ask, "What part of your experience is hurting the most today?" This permits examination of the component of the traumatic experience that is most difficult for the victim and eliminates the need for the advocate to guess or probe. As Rabbi Earl Grollman says (1994), "If it's mentionable, it's manageable."
- Recognize that there will always be a "most difficult" component of the victimization. However, victims' understanding of each component may change from time to time as it is processed and mastered.
- Provide requested information, but be cautious about overloading victims with more than they can handle. For example, MADD has more than twenty victim assistance brochures and several books for survivors. These should be distributed only as appropriate to address the unique components of each victimization.
- Support family members who wish to view the body of their loved one. Many have a need to get to the body as soon as possible because they did not have time for psychological preparation. Viewing the body helps the death to become real. Many feel that seeing and touching it in its natural state helps them say good-bye more realistically than after funeral home preparation. It also helps to confirm the identity of the person who was killed which combats "magical thinking," such as "There's been a mistake; it wasn't my loved one who has been killed."
- Offer to view the body first, and then describe it in detail to family members. After hearing the description, many survivors will choose to

- view their loved one and, after being prepared for what they will see, are grateful for the opportunity.
- Assist survivors who wish to view photographs of their loved one or to go over details of the autopsy report. This desire is most often expressed by those who were unable to view the body of their loved one. As one bereaved father put it:

The worst thing that could happen to me had already happened. I knew her injuries were so severe that they killed her, and I was prepared for that. What I wasn't prepared for was everyone's resistance. I knew what I could handle, and all I was asking for was the opportunity to see pictures that a large number of people had already seen.

Photographs may be retrieved from crime scene records, the medical examiner, media entities, and sometimes funeral homes. As with viewing the body, prepare family members to view photos. Parents of Murdered Children offers a helpful technique for assisting the bereaved in viewing difficult photographs of their loved one. Ask the person in possession of the photographs to sort them with the least offensive photo on top to the most offensive on the bottom. This person should place each photo in its own envelope or folder, or at least separate them with sheets of paper. One at a time, a trusted person of the survivor looks at each photo, describes it, and then asks the survivor if he or she still wishes to view it. This technique offers the survivor two pieces of information from which to decide whether or not to look at a specific photo. The survivor has both the verbal description of the photo and the trusted person's reaction, through body language and tone of voice, to help him or her decide whether or not to view the picture.

Some survivors want to see all the pictures; others want to see only one or two, usually to confirm that it really was their loved one who was killed. Those who want to have copies may choose not to look at them until much later. They may tuck them in a file or drawer, but the survivors know the photos may be viewed at their discretion, not at someone else's.

- Understand that catastrophic injury resulting in permanent disability may have a more lasting impact on families than death. Physical and emotional suffering over-spends the energy needed to function on a day-by-day basis. Likewise, socioeconomic levels nearly always drop due to lack of income of at least one wage-earner in the family. Advocates must not neglect this crucial component of services. Likewise, attention to the caregivers of the permanently injured must not be ignored. A good resource for families of the injured is the book *Injury: Learning to Live Again* (Mercer 1994).

- Listen to the specific language of survivors as they talk about the crime and mirror it. Early on, they may be unable to accept the fact that it was more than an accidental death. As they obtain more information and adapt to reality, their language may change to "killed" or "murdered." If they continue to use the word, "accident" along with description of the alcohol-related components, suggest that perhaps it really was not "accidental" at all. This will invite the survivors to use stronger language if it feels right for them.
- Do not push survivors to "find meaning" in what happened before they are ready--which may take some time.
- Encourage memorialization experiences such as attendance at MADD Candlelight Vigils and newspaper memorials on the anniversary, if survivors find these helpful. Support their efforts if they choose to become active in groups working to stop drunk driving.
- MADD's Victim Impact Panel program may be especially useful in helping victims find meaning in their victimization. Explain what happens on such panels and encourage those who want to participate.
- Acknowledge that the faith community can sometimes be a source of revictimization and allow victims to ventilate those frustrations as fully as other components of their experience.
- Remind survivors that it may take considerable time to reestablish a relationship with God, to make a decision about forgiveness, or to feel comfortable in worship again. This may help normalize their spiritual concerns.
- Develop a clergy referral list for all major faiths in your community. MADD has a questionnaire that asks clergy about their interest in referrals and requires written response to questions that will help survivors decide about contacting them.

Promising Practices in Drunk Driving Public Policy

PREVENTION

There is no single solution to reducing alcohol- and drug-related crashes. Comprehensive, multi-strategy community interventions can best accomplish the task.

The federal government should continue to invest resources to stop drunk driving and ensure the passage of substantive laws at the state level. For every dollar spent on highway safety in 1992, a cost savings of \$33 was achieved in lives saved (NHTSA 1994). Continuation of the incentive grant programs that have been so effective is crucial. Examples include supplemental federal highway funds for states passing minimum 21 drinking age, maximum 0.08 BAC, and 0.00 BAC for youth laws.

The goal of the National Highway Transportation Safety Administration (NHTSA) to reduce alcohol-related fatalities to 43% by 1996 was achieved two years ahead of schedule, and MADD's goal to reduce the proportion of traffic fatalities that are alcohol-related to 40% by the year 2000 has been achieved. However, components of the 1995 National Highway Safety Act that did away with the 55 m.p.h. speed limit and mandatory helmet laws are extremely likely to increase overall fatalities and injuries. The Insurance Institute of Highway Safety (*Fort Worth Star-Telegram* 1999) reports that highway deaths increased approximately 15% in states that increased their speed limits after the 1995 law was passed. In states that retained the old limit, deaths remained constant.

The Department of Transportation has established the ambitious goal of reducing alcohol-related fatalities to no more than 11,000 per year by the year 2005 (NHTSA 1995). This means a reduction of about 5,000 annually from the 1994 level, saving sixteen more lives each day. MADD also adopted the goal of 11,000 by 2005, but emphasizes that there is *no* acceptable minimum number of alcohol-related deaths or injuries.

HIGHER RISK DRIVERS AND MEASURES TO IMPROVE PUBLIC SAFETY

(Portions of the following section are excerpted from an article entitled *MADD's Higher Risk Driver Program*, by Robert Voas, January 2000, <http://www.madd.org>.)

Higher risk drivers have been defined as individuals who repeatedly drive after drinking, especially with high levels of alcohol in their blood, and who seem resistant to changing their behavior. On weekend nights in the United States, only 1 percent of drivers have a BAC of 0.15 or higher, but drivers with BACs of 0.15 or higher account for 65 percent of all drinking driver fatalities. The 1996 MADD "Rating of the States" report found that the average BAC of drunk drivers arrested by state police varied from 0.130 in Montana to 0.185 in Connecticut. A driver with a BAC at 0.15 is more than 300 times more likely to be involved in a fatal crash. While most drivers in fatal crashes have not yet been convicted of drunk driving, those who have are at significantly greater risk of causing a drunk-driving crash.

What complicates the situation and increases their risk to public safety is the fact that the majority of drinking drivers in fatal crashes do not have a previous DUI conviction, nor do all higher risk drivers come to the attention of the authorities before they are involved in a crash. Heavy drinkers develop a sufficient tolerance to alcohol such that they can appear to behave normally at a high BAC. Furthermore, authorities have difficulty in assuring that an individual arrested and convicted of a drunk-driving offense does not continue to drive after drinking--a shortcoming of state laws and the criminal justice system, and a lack of knowledge about how to apprehend these offenders.

On the other hand, state efforts to reduce illicit driving by convicted drunk drivers through practices such as vehicle impoundment and forfeiture, license plate impoundment and tagging, and the use of alcohol ignition interlocks appear to show promise. Those practices, combined with license suspension and treatment programs, are increasingly being used to deal with higher risk drivers.

MADD higher risk drivers campaign. Mother's Against Drunk Driving (MADD) has developed a plan for controlling the risk presented by those offenders who are apprehended by the police and who become liable for license action by the Department of Motor Vehicles (DMV) or the courts (Voas January 2000). The recommended actions are directed at reducing the risk that these offenders will drink and drive again. MADD identifies three types of offenders as higher risk drivers:

- Someone convicted of a drunk driving offense within five years of a prior drunk driving conviction.
- Someone convicted of drunk driving who had a BAC of 0.16 or higher at the time of the offense.
- Someone convicted of driving with a suspended license where the suspension was the result of a drunk driving arrest.

The "Higher Risk Driver" campaign seeks to create an integrated, comprehensive system in each state where the courts, driver's licensing agencies, and treatment programs work together to control the most persistent impaired drivers. The court, in conjunction with the DMV, will have responsibilities to:

- Restrict the driving privileges of convicted offenders to keep them off the road.
- See that convicted offenders provide restitution to the injured parties and to the citizens of the community where they have caused a crash.
- Assist convicted offenders in recovering from alcohol dependence by providing treatment programs.

To evaluate the recovery of the convicted offender, payment of restitution, and a successful violation-free suspension period, MADD suggests that the courts and the DMV establish a DUI tracking system to record the outcome of every DUI arrest and the fulfillment of the above requirements. Secondly, they should issue an annual report on the DUI management information systems to identify operational problems as they occur.

LEGISLATION AND COMMUNITY-BASED SANCTIONS

The following state-level efforts will help reduce drunk driving nationwide:

- **Administrative License Revocation (ALR).** This is an administrative system that provides for the immediate suspension of the license of drivers who are arrested for driving under the influence and fail blood alcohol tests by registering above the legal BAC limit in their state. The thirty-eight states that adopted ALR have reduced single vehicle nighttime fatalities 6% to 9%. If all states without ALR would adopt the law, 200 to 350 lives could be saved each year.
- **21 Drinking Age Laws.** The establishment of a uniform minimum drinking age of twenty-one in all states, territories, and jurisdictions of the United States has been critical to arresting drunk driving. No single piece of legislation has been more effective in reducing alcohol-related deaths and injuries among the under twenty-one age group than the federal 21 Minimum Drinking Age Law of 1984. Faced with a loss of federal highway funds, every state raised its minimum drinking age law to twenty-one by 1988. As a result, alcohol-related youth fatalities decreased 56% between 1982 and 1994. Alcohol-related adult fatalities during the same time frame decreased by 40%. Minimum drinking age laws have saved an estimated 15,667 lives since 1975 (NHTSA 1997).

In November 1995, Congress and President Clinton further strengthened the 21 drinking age law by passing and signing the National Highway System Act that requires each state to pass "zero tolerance" laws (minimum BAC at 0.00 to 0.02) in order to receive federal highway funds. Zero tolerance laws reduce young drivers' alcohol-involved crashes by 20%.

- **0.08 BAC Limits For Adults.** In 1996, more than 46 million Americans drank or took drugs within two hours of driving (Knutson 1998). Nearly 25% of all alcohol-related traffic fatalities in 1996 involved drivers whose blood alcohol content was below 0.10 (NHTSA 1997). In California, alcohol-related fatalities dropped 12% after 0.08 and Administrative License Revocation (ALR) laws were passed. Preliminary results of the most recent studies reveal that California, Oregon, Utah, and Vermont have also experienced significant decreases in driver alcohol involvement after lowering the BAC limit to 0.08 (NHTSA December 1994).
- **Sobriety Checkpoints.** Sobriety checkpoints are frequent and regular, highly publicized, highly visible enforcement programs to detect and apprehend alcohol- and other-impaired drivers. Two-thirds of the driving age public believe sobriety checkpoints should be used more frequently than they are now (NHTSA 1996). Even a majority of drivers who drink support increased use of sobriety checkpoints (Ibid.). Programs in the areas listed below have shown how effectively-run sobriety checkpoints

can have a substantial impact on drinking and driving and alcohol-related crashes.

- Charlottesville, VA: 13% reduction in proportion of alcohol-related crashes.
- Clearwater/Largo, FL: 20% decrease in proportion of alcohol-related crashes.
- Bergen Co., NJ: 10% to 15% decline in single vehicle nighttime crashes.
- Binghamton, NY: 39% decline in drinking drivers based on a roadside survey.
- North Carolina: More than 50% decline in drinking drivers at checkpoints.

The U.S. Supreme Court has upheld sobriety checkpoints as constitutional.

- Open Container Laws. These laws restrict the consumption or possession of open containers of alcohol in any motor vehicle, thus separating alcohol consumption from vehicle operation.
- Plate/Vehicle Confiscation/Impoundment/Forfeiture. Laws providing for confiscation and/or impoundment of license plates or vehicles of habitual drunk driving offenders or those who drive on suspended licenses are believed to be effective but more research is needed. States that have passed these laws should study their effect and develop model legislation based on the findings.
- Mandatory Confinement for Repeat Offenders. Laws providing for mandatory jail sentences that cannot be suspended or probated for repeat drunk driving offenders are believed to serve as a deterrent to future violators, but definitely serve a remedial purpose by assuring that these drivers are kept off the public streets and highways during incarceration. States should study the effect of mandatory confinement laws and amend their statutes accordingly.
- Happy Hour Restrictions. Prohibitions against "happy hour" promotions and other marketing practices that encourage excessive alcohol consumption have been shown to be effective at preventing alcohol-related injuries and fatalities in some communities. Bars and restaurants that engage in "happy hour" promotions should be sanctioned by their state's Alcohol Beverage Control agency.
- Excise Taxes. A tax on all alcoholic beverages is one means of funding programs to prevent drunk driving and serve victims. Excise taxes on beer and wine should be made equivalent to taxes on distilled spirits and these tax dollars used for funding prevention programs.
- Mandatory Testing. More than 80% of impaired drivers admitted to hospital emergency departments were not held responsible for their crimes because they were not reported by emergency physicians or charged by law enforcement (Orsay et al. 1994). Mandatory blood alcohol concentration testing of drivers in all traffic crashes resulting in death or

injury should be enacted. Medical providers should be required to report BAC levels and other drug involvement of drivers to law enforcement agencies.

- DUI Vertical Prosecution Unit. A DUI Prosecution Unit within the District Attorney's Office in Shelby County, TN handles all new cases involving DUI defendants, including misdemeanors and felonies. The overall goal of the unit is to bring about more effective prosecution in DUI cases by having one prosecutor handle each case from the beginning to the end. To communicate to the offending public that the District Attorney's Office intends to aggressively prosecute drunk drivers, the office secured a grant from the Governor's Highway Safety Office to deliver television and radio public service announcements with the following message:

If you get in your car and drive anywhere at 0.08, you'll have a record. The limit has been reduced--along with our tolerance. Drive Drunk--Do Time--Every Time. Earn the Title of Felon in Just Four Easy Lessons: Have a few too many. Grab your keys and drive. Meet the Cops. Check into the Big House (Blackburn 1 November 1999; *1998 Annual Report*).

- *DUI for Motorists to Report Drunk Driving on the Highway. The District Attorney's Office in Santa Cruz County, CA has created a program that permits motorists to report what they observe as alcohol or drug impaired driving on the highways. Drivers with cell-phones may place calls to police dispatchers by dialing *DUI to call in the license plates, descriptions, and locations of vehicles on the highway that are weaving or moving in an erratic manner. The dispatch center contacts the on-duty highway patrol in the area to stop the car and evaluate the driver for symptoms of intoxication. In the event that the suspect is not located on the highway, the registered owner of the vehicle, as indicated by the license plate, receives a letter from the District Attorney's Office advising that a report has been filed and describing the criminal charges than can be filed had the car been pulled over.

While defense attorneys in the county courts have made the case that the highway patrol had no probable cause for stopping the driver, judges in the county are ruling that the observation of a citizen and the dispatch log for the call is probable cause for a police intervention. A substantial number of DUI cases pass through the Santa Cruz County courts each year, 15 percent of which result from a *DUI call followed by intervention. Prosecutors believe that, in the long run, the more the public is engaged in crime prevention in this manner, the less juries will be skeptical of arrests that are instigated by a citizen intervention (Marigonda 18 October 1999).

- Ignition Interlock Program. In Hancock County, IN almost all convicted DUI offenders are required to have their cars fitted with an Ignition Interlock

- device that connects a breathalyzer to the automobile ignition. The technology is considered to be an effective sanction for DUI offenders and a useful alternative to long-term license revocation. DUI probationers must blow into the device before starting their vehicles; if they have been drinking, their ignitions will not operate. The Ignition Interlock device also includes random re-tests while the car is in motion; if the driver fails the test while the car is in motion, the device sets off blaring horns and flashing lights. Between 1990 and 1995, DUI arrests in Hancock County dropped forty percent, a decline that local law enforcement attributes to the Ignition Interlock Program (Drug Strategies 1999).
- Alcohol Excise Tax Funds DUI Prevention Programs. In West Virginia, all of the revenues from a 6 percent excise tax on alcoholic beverages sold in clubs are used to fund the State Police Commission on Drunk Driving Prevention. In 1998, revenues were nearly \$1 million. Local police departments throughout the state receive grants to fund overtime patrols, sobriety checkpoints, and studies on local drunk driving trends. The Commission's efforts have helped reduce alcohol-related traffic fatalities in the state by 40 percent over a fifteen year period (Drug Strategies 1999).

VICTIMS' RIGHTS

- Constitutional amendments for victims' rights and statutory Victims' Bills of Rights. While most states now have statutory rights, the courts will never assure that these rights are actually offered until they are placed in the U.S. Constitution and all state constitutions. An Amendment to the U.S. Constitution and all state constitutions would assure rights for victims of all crimes, including victims of drunk driving crashes.
- Bankruptcy protection. In 1982, if a crash victim won a money judgment against a driver, the driver could immediately walk into federal bankruptcy court and successfully have the debt discharged. Through amendments to Chapter 7 of the *Federal Bankruptcy Code* in 1984 and Chapter 13 in 1990, persons who kill or injure others while driving impaired cannot file bankruptcy to avoid paying criminal restitution or civil judgments to their victims. An amendment to Chapter 11 of the Federal Bankruptcy code would prevent businesses found liable of irresponsible alcohol services from claiming bankruptcy protection.
- Compensation. The re-authorization of the Victims of Crime Act (VOCA) in 1988 represented a major step in assuring that drunk driving crash victims are considered legitimate victims of crime. The new law provided that states excluding drunk driving crash victims from their crime victim compensation program would no longer be eligible for VOCA funding.

Within a couple of years, all fifty states amended their statutes to include drunk driving crash victims and, in most states, victims of hit-and-run. The 1988 law also opened the door for services grants to programs serving crash victims by designating that states must begin allocating a proportion

of their victim assistance grants to "previously underserved victim populations."

Compensation statutes should be amended to assure fair compensation for crash victims. Amendments should remove means tests, eliminate denial of benefits for victims who are uninsured or passengers in a vehicle driven by an impaired driver. An ample number of mental health counseling hours for family members of someone killed and those who survived crashes should be assured. Compensation caps should be raised or removed for victims of severe or permanent head or spinal cord injury.

- **Dram shop/social host liability.** Dram shop statutes and case law hold servers of alcohol (bars, restaurants, social hosts) financially liable for serving minors or noticeably intoxicated adults. State laws should be passed to assure that those who knowingly contribute to the intoxication of others who then kill or injure become financially liable to the crash victims. States should also assure that their tort laws do not limit a seriously injured victim's ability to recover financially.
- **Endangerment of Children.** Driving intoxicated or impaired by other drugs is clearly endangering to all passengers in the vehicle and is particularly negligent or even abusive when children have no choice about riding in the vehicle. The Federal Crime Bill of 1994 enhanced the drunk driving penalty of all offenders on federal land if a child under the age of sixteen was a passenger in the vehicle.

Legislation that increases the criminal sanctions for drunk driving offenders who have children in the vehicle when crimes are committed should be supported. Also, states should define "driving impaired with children in the vehicle" a specific form of child endangerment. Evidence of such conduct should be considered by family court judges in determining custody and visitation in suits affecting the parent-child relationship.

- **Victim Impact Panels** are a group of three or four victims who speak ten to twelve minutes each about the effect of their drunk driving crash. Research (Mercer 1995b) indicates that while panels appear to reduce recidivism among offenders, even more significant is the fact that they offer a healing opportunity for victims. Legislation that mandates attending a Victim Impact Panel as a component of the sentence of every drunk driving offender in counties that offer the program should be supported.
- **Drunk Driving Death and Injury a Violent Crime.** The violence perpetrated on the bodies of those killed and injured in drunk driving crashes is well documented. Yet, it is not uniformly understood as a violent crime. Legislation that defines drunk driving death and injury as violent crimes and elevates them to felony status should be supported. Repeat offenders who maim and kill should be prosecuted under second-degree murder statutes, or second-degree murder language should be amended to define

this victimization as one form of wanton and willful disregard for human life. The FBI and Uniform Crime Reports should define drunk driving death and injury as major crimes.

Promising Practices in Drunk Driving Public Awareness

Public awareness programs must not be overlooked as a component of the significantly reduced drunk driving fatality rate. MADD's positive relationship with the National Association of Broadcasters was solidified in 1984 when MADD decided not to oppose alcohol advertising. Public service announcements and paid advertisements by numerous corporations about drunk driving are believed to have made a difference, although their effect is difficult to measure.

- "MADD: The Candy Lightner Story," which aired as NBC's Movie of the Week in March 1983, was seen by hundreds of thousands of viewers and contributed to the development of more than 200 MADD chapters in forty states. The movie also served as the catalyst for a significant increase in media coverage of drunk driving. A Catholic University study indexed five major newspapers (*New York Times*, *Wall Street Journal*, *Washington Post*, *Los Angeles Times*, *Christian Science Monitor*) and 370 periodicals in 1983. The study found that print coverage of drunk driving increased dramatically from four stories in 1980, to 30 stories in 1981, to 116 stories in 1982, and to 219 stories in 1983 (McCarthy et al. 1986).
- Other public awareness programs may have contributed to the decline in drunk driving: MADD's Poster/Essay Contest for elementary through high school youth and the Red Ribbon Campaigns of Parents for Drug Free Youth and MADD ("Tie One on for Safety") reach thousands. Alcohol-free prom and graduation parties are now commonplace throughout the nation. MADD's Sobriety Checkpoint Weekend over the July 4 weekend has received significant media attention as have Candlelight Vigils of Remembrance and Hope held at the local, state, and national levels each December.
- The Ad Council has developed a number of public service announcements related to drunk driving awareness and prevention. One such campaign focuses on designated drivers with the slogan "friends don't let friends drive drunk."
- Project CHEERS (Creatively Helping to Establish an Educated and Responsible Society) is Missouri's designated driver program, funded by Missouri Department of Public Safety Division of Highway Safety. Project CHEERS works with college campuses and communities all over the state to reduce the number of alcohol-related crashes.
- An excellent example of a state coalition is the Designated Driver Program, sponsored by the St. Mary's Alliance for Alcohol/Drug Abuse Prevention, the Calvert County alliance Against Substance Abuse, Charles County Community College Safe Community, Charles County Sheriff's Office, and the Highway Safety Division of the Maryland Department of Transportation.

This group works with customers and vendors to encourage designated drivers. Program "kits" are provided to vendors(including buttons saying, "Kiss Me, I'm the Designated Driver"), and the group utilizes all media for extensive PSA campaigns.

- MADD's Victim Services Program. All of MADD's services and literature are free. Its Victim Services Department offers a series of twenty brochures for victims that address various features of victimization. The organization also requires that each chapter provide eight basic services to victims, and many chapters provide Level II and Level III services. Each chapter's advocate must receive a minimum forty hours of training and must comply with numerous policies to assure quality care of victims. Many MADD chapters offer victim support groups and victim impact panels. Advocates assist victims in writing victim impact statements and completing compensation forms. They assist victims through the criminal or juvenile justice process and attend court if requested. MADD offers a wide array of prevention programs for victims when they are ready to become actively involved in MADD's mission to stop drunk driving and to support victims of this violent crime.

Drunk Driving Self-Examination

1. Name at least one reason for the significant drop in drunk driving deaths beginning in the early 1980s.
2. Name three of the first states to pass 0.10 per se laws.
3. How much did the drunk driving fatality rate for victims under age twenty-one drop between 1982 and 1994?
4. How did the 1988 reauthorization of the Victims of Crime Act (VOCA) contribute to the development of additional programs and funding for drunk driving crash victims?
5. Discuss the impact of drunk driving crashes upon survivors of murdered victims. How does this parallel and how does it differ from the experiences of victims who suffer injuries and their families?
6. Name three emerging issues in drunk driving that you think would make a difference in reducing injuries and deaths.